DECLARATION OF MICHAEL E. ELIA, M.D.

1. I, MICHAEL E. ELIA, M.D., have been retained as an expert on behalf of King Pharmaceuticals, Inc. ("King"). I executed a declaration in support of King's Citizen Petition dated March 18, 2004, opining on the effect that omission of bioavailability information from the labeling for generic versions of SKELAXIN® would have on clinical practice. In addition to what is already set forth in my original declaration, I have been asked to further elaborate on why the inclusion of the results of clinical studies demonstrating the effects of food, gender, and age in the labeling for generic metaxalone is important to practicing clinicians and why the omission of such results can cause serious concerns regarding safe and effective dosing of metaxalone.

I. EXPERT QUALIFICATIONS

2. My statement of qualifications was submitted in my original declaration, dated March 18, 2004.

II. STATEMENT OF OPINION

3. It is my understanding that following King's submission of its Citizen Petition, including my original declaration, to the FDA, Corepharma LLC ("Core") and Mutual Pharmaceutical Co., LLC ("Mutual") each submitted papers to the FDA arguing that the omission of bioavailability information concerning the effects of food, age, and gender from the labeling for generic versions of SKELAXIN® is proper. It is my opinion, however, based on my clinical experience and my personal experience prescribing SKELAXIN®, that the omission of such bioavailability information from the labeling of generic versions of SKELAXIN® raises serious safety and efficacy concerns and would be highly improper. The information is critical

to physicians who prescribe SKELAXIN® or generic versions of SKELAXIN®. In the following paragraphs, I elaborate on the reasons why the information is critical and should not be omitted.

A. The Omission of Bioavailability Data From Labeling of Generic Metaxalone Products Would Be Misleading

4. First, the omission of data demonstrating the effect of food on the bioavailability of metaxalone from the labeling for generic metaxalone products is misleading, particularly because the labeling for SKELAXIN® includes the very data that would be omitted from the generic labeling. If the information were to be omitted from the labeling for generic metaxalone products, the resulting incomplete and incongruous labeling would render the generic metaxalone products less safe and less effective than SKELAXIN®. Similarly, once additional information on the effects of age and gender on the bioavailability of metaxalone is included in the labeling for SKELAXIN®, it would be misleading to omit this information from the labeling of the generic products.

5. As I explained in my original declaration, the labeling for a drug product is the single immediate source used by prescribing physicians when determining whether and how that drug is to be dosed and administered. This is the case regardless of whether the drug is a branded drug or a generic version of a branded drug. Thus,if the labeling for SKELAXIN® or for generic metaxalone products does not include the results of studies designed to assess the effects of food, age, and gender on the bioavailability of metaxalone, a physician would most likely conclude that the effects of various factors such as food, age, and gender were unknown or that the bioavailability does not vary. The inability to make informed choices with respect to

dosage and administration strategies due to incomplete labeling would negatively impact the outcome of generic metaxalone therapy as compared to SKELAXIN® therapy.

6. Indeed, it is very misleading if the bioavailability data that is currently required to be included in the labeling for SKELAXIN® is omitted from the labeling for generic metaxalone. In order to obtain FDA's approval, comparative bioequivalence studies showing that branded and generic drugs have the same bioavailability under both fed and fasted conditions are required. However, absent labeling that includes the data demonstrating that there is a significant increase in oral bioavailability in the fed state as compared to the fasted state, a physician would not be able to predict the circumstances under which the bioavailability of generic metaxalone product would be equivalent to that of SKELAXIN®. Not knowing the variables or circumstances that might affect drug bioavailability can lead to problems with patient safety and/or treatment efficacy. As such, the omission of information regarding the effects of different variables such as food, age, and gender on the bioavailability of metaxalone in the labeling for generic metaxalone would render the generic product less safe and effective than SKELAXIN®.

B. <u>The Inclusion of Bioavailability Data Is Critical in the Clinical Setting</u>

7. Second, the ability to consider information regarding conditions that can cause significant changes in the bioavailability of a drug is particularly relevant in the clinical setting. The practice of medicine is dynamic and tailored to the needs of individual patients. The treatment of a patient involves judgments that are unique to that individual's symptoms and surrounding circumstances. It is crucial that decisions are made based on the patient's particular needs. Just as a simple example, even though the recommended dosage range for SKELAXIN® is 800 mg three to four times daily, if a patient complains of drowsiness that interferes with work

or with driving, it would not be uncommon for a prescribing physician such as myself to recommend that SKELAXIN® only be taken later in the day or at night, thereby resulting in a reduction in the frequency and dosage of the drug.

8. A responsible physician will be extremely cognizant of the importance of adjusting treatment options to best suit individual patients and their specific set of symptoms and circumstances. Accordingly, it is critical to be aware of all information that can be used to determine whether an adjustment in dosage or administration will provide better drug treatment for a patient. As I explained in my previous declaration, the inclusion of the results of clinical studies designed to assess the effects of food, age, and gender on the bioavailability of metaxalone is information that I, as well as other prescribing physicians, would consider when determining, among other things, the optimal dosage and administration for each individual patient.

9. In the current SKELAXIN® labeling, the recommended dosage regimen is 800 mg t.i.d. or q.i.d. The results of clinical studies demonstrating the increase in bioavailability of metaxalone when administered with food as compared to without food are also included in the current labeling. Because this bioavailability information is readily accessible from the labeling, I am able to use this information to adjust, among other things, the dosage and administration of SKELAXIN® for particular patients. As I discussed in my original declaration, it is oftentimes preferable to decrease the volume and frequency of dosage needed for effectiveness. Just by way of example, knowing that bioavailability is increased upon administration with food, I may recommend that a particular patient dose three times a day with food rather than four times a day without food.

10. It is my understanding that the results from additional bioavailability clinical studies designed to assess the effects of food, as well as age and gender, are soon to be included in the labeling for SKELAXIN®. This is important information that can be used in conjunction with the recommended dosage range to determine whether and how to adjust the dosage regimen to best suit the individual patient and tailor that regimen to that particular patient's symptoms. As a physician who prescribes SKELAXIN® to patients of all ages, male and female, it critical to me that the SKELAXIN® or generic metaxalone product labeling include the results of clinical studies designed specifically to access the effects of food, age, and gender on the bioavailability of metaxalone.

11. As I discussed in my original declaration, it is of particular relevance to my practice to know that in the absence of food, as age increases, so does bioavailability of SKELAXIN®, whereas age has little or no effect upon the rate and extent of absorption of SKELAXIN® when administered with food. The ability to minimize at least one variable that affects bioavailability of SKELAXIN® by administering it with food is very useful in determining particular dosage regimens for my diverse population of patients. With this information available to me, I would be able to at least minimize any age-related variations in the bioavailability of SKELAXIN® by recommending its co-administration with food.

12. As another example, having access to the data demonstrating that bioavailability is higher in females than in males, I may recommend three doses daily to a female patient but recommend four doses daily to a male patient with similar symptoms.

13. In sum, knowing the variables that can affect bioavailability of SKELAXIN® allows me and other prescribing physicians to minimize the unpredictability of a patient's response to metaxalone and maximize the safety and effectiveness of the drug.

IV. CONCLUSION

14. As discussed above and in my original declaration, the information provided in a drug's labeling is the single most important source from which a prescribing physician can determine whether and how that drug is to be dosed and administered. In addition to information in the "Dosage and Administration" section of a drug label, physicians also rely on other sections of the labeling to provide important information such as conditions that may affect drug bioavailability, which is necessary to consider in choosing, among other things, appropriate doses and in providing appropriate dosing instructions to the patient.

15. When prescribing drugs to patients, a physician must be cognizant of the individual needs of a particular patient. The uniqueness of each patient requires dosage and administration that is specifically tailored to meet the needs of that individual patient. In making decisions to ensure the safe and effective use of metaxalone, it is critical to have access to all information that can help predict the patient's response to the drug.

16. Thus, it is imperative that the labeling for all metaxalone products include all available information regarding the effects of food, age, and gender on bioavailability. The omission of such information from the labeling of generic metaxalone products would be misleading and could adversely affect the decisions made when prescribing metaxalone to patients. Without the information in the labeling, a prescribing physician would not be able to make an informed decision to determine the dosage amount, frequency, and dosing conditions that will provide optimal patient safety and therapeutic efficacy for an individual patient.

Accordingly, the pharmacokinetic information describing the relative bioavailability of metaxalone should appear in labeling for SKELAXIN® as well as labeling for any generic versions of SKELAXIN® marketed in the future.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

7/21/04

Date

Michael E. Elia, M.D.